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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,276	11/17/2003	Jean-Jacques Lacroix	14515	1469

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EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,276

Applicant(s)

LACROIX ET AL.

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 9 and 10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/22/2004.

Applicant's election with traverse of the elected invention in the reply filed on 9/22/2004 is acknowledged. The traversal is on the ground(s) that the search and examination of the instant application can be made without burden to the Examiner, and the Examiner has not offered forth an explanation or reasoning as to why the inventions are considered to be distinct. This is not found persuasive because of the following:

1) Applicant has failed to show that search is the overriding criteria in determining the burden imposed upon the examiner. Applicant's general allegation that "search and examination of the entire application would not place a serious burden on the Examiner" (emphasis applicant's) fails to comply with the requirement of 37 CFR 1.111 and is wholly insufficient. In particular, what is the basis relied upon to arrive at the conclusion that no serious burden is imposed? Is applicant alleging that the examiner would only have to consider the patentability of the generic aspects of the invention? Is applicant asserting that the numerous species are not patentably distinct and thus are obvious in view of one another? Is applicant asserting that all claims stand or fall with the patentability determination of claim 1 and thus separate arguments directed toward each individual species would not have to be considered?

Nevertheless, it is extremely burdensome to have to carry out an examination, including consideration of and response to arguments, for all of the specific features of each of the multiple patentably distinct species in the same application when no patentably generic claim is indicated to be present.

2) It appears from applicant's arguments that applicant has not analyzed the examiner's action in the context of the established practice for requiring a provisional election of species as established in Chapter 800 of the MPEP. It is a well-established practice that a requirement to elect a single disclosed species is a holding by the examiner that the plural species, as claimed, are patentably distinct, i.e., capable of supporting separate patents. See MPEP 808.01(a) and MPEP 809.02(a). If the applicant is of a different view, then applicant need merely clearly state on the record that the species are not patentably distinct. Neither the examiner nor the applicant needs to present any reasoning. Of course, it should be noted that the species that are not patentably distinct for restriction purposes are also not patentably distinct (i.e., obvious in view of one another) for rejection purposes. Applicant's response implies that the various identified species are not considered to be patentably distinct. If such is the case, then applicant must clearly admit this on the record or point to evidence already of record. It is noted that the examiner fully complied with the required and well-established procedures pertaining to the making of a provisional election requirement. The procedures are clearly and explicitly outlined in MPEP 809.02(a). Further, MPEP 817 clearly states that "(t)he statement in MPEP § 809.02- § 809.02(d) is adequate indication of the form of letter when an election of species is required." Further, MPEP

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806.04(h) clearly states that the examiner is to group together species that are clearly unpatentable over each other. Thus, it is inherently quite evident that species not grouped together are considered to be patentably distinct from the other separately listed species.

The requirement is still deemed proper and is therefore made FINAL.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement (IDS) filed 11/17/2003 is being considered by the examiner.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a ***single paragraph*** on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "it", but it is not clear to the Examiner what it might be. For examination purposes, the Examiner will assume that "it" is the quick coupler.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by French patent FR 2767899 A.

In regards to claim 1, as best understood, FR 2767899 A discloses a quick coupler for the removable join of two pipes through which a fluid under pressure passes, the coupler comprising two elements, male and female, adapted to fit axially in each other, the body of the female element being equipped with a latch (7, 14) loaded by elastic means (8), mounted to slide in the body and pierced with an opening for the fit of the male element or of a piece displaced by the male element, the wall of the opening of the latch being equipped with teeth (15, 16) offset with respect to one another along a

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median axis of the opening, while the male element or the piece is provided with a shoulder adapted to rest selectively against one of the teeth, wherein the quick coupler comprises a safety member (9) subjected to the action of the pressure exerted by the fluid and provided with a surface adapted to come into abutment on a complementary surface of the latch and to block the movement of the latch against the elastic means.

In regards to claim 2, as best understood, FR 2767899 A discloses the safety member being mobile with respect to the body of the female element, essentially under the effect of the pressure exerted by the fluid and under the effect of an effort of reaction exerted by the latch.

In regards to claim 3, as best understood, FR 2767899 A discloses the surfaces formed respectively on the safety member and on the latch being inclined with respect to the direction of relative displacement of the male and female elements and with respect to the direction of slide of the latch in the body of the female element.

In regards to claim 4, as best understood, FR 2767899 A discloses the surfaces being inclined towards an axis parallel to the longitudinal axis of the coupler in the direction of upstream of the coupler.

In regards to claim 5, as best understood, FR 2767899 A discloses the safety member being formed by a piston moving in a direction substantially parallel to the direction of relative displacement of the male and female elements.

In regards to claim 6, as best understood, FR 2767899 A discloses the piston comprising an orifice adapted to allow the passage of the male element or of the piece displaced by the male element.

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In regards to claim 7, as best understood, FR 2767899 A discloses the means for returning the latch being adapted to provoke separation of the abutting surfaces of the latch and of the safety member, when the pressure exerted by the fluid in the coupler is lesser than a pre-established value.

In regards to claim 8, as best understood, FR 2767899 A discloses the body of the female element comprising a principal part in which is immobilized a secondary part of the female element connected to one of the pipes, immobilization being effected by catches borne by the secondary part catching with complementary catches borne by the principal part.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure because it illustrates the inventive concept of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 703-306-3436. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 703-306-5771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Aaron M Dunwoody
Examiner
Art Unit 3679

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